

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROSE MARIE ADAMY and
JOSHUA JABEZ ADAMY, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

UNPUBLISHED
April 11, 2006

Petitioner-Appellee,

v

GARY ADAMY,

Respondent-Appellant.

No. 264085
Macomb Circuit Court
Family Division
LC No. 03-054740-NA

Before: Hoekstra, P.J., and Wilder and Zahra, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err in finding that the statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The conditions leading to adjudication with regard to respondent were incarceration, mental illness, and substance abuse. Despite respondent's desire to rectify the conditions of adjudication and reunite with his children, and his efforts towards this goal, his condition changed little during the 20-month proceeding. MCL 712A.19b(3)(c)(i). He was periodically incarcerated, which hindered his efforts. His self-reported mental stability did not lead to better decision making or employment. Respondent expressed an intention to seek well-paying employment for which he was qualified, but did not. He maintained a relationship with the children's mother despite her failure to rectify her substance abuse issue and planned to include her in reunification with the children. Marijuana was found in respondent's vehicle at the time of his December 9, 2004 arrest for driving on a suspended license. Respondent engaged in domestic violence with the children's mother despite self-reporting that he had participated in anger management counseling.

Respondent was incarcerated at the outset of this proceeding, for a short time during the proceeding, and again at the time of termination. Although suitable temporary caretakers were available to provide proper custody for the children until respondent was released from jail, there was no reasonable expectation that respondent would then be able to rectify the conditions of

adjudication or provide proper care and custody of the children within a reasonable time. MCL 712A.19b(3)(g). He had not been able to do so during the 20-month course of this proceeding, and it was not reasonable to expect the children to wait another nine months until his release from jail and an additional length of time for him to comply with services.

The children could not be returned to respondent at the time of termination because he was incarcerated, but looking prospectively toward the time of respondent's release, the evidence showed that the children would likely suffer harm in respondent's care. MCL 712A.19b(3)(j). While the evidence did not show that respondent would intentionally physically harm his children, it did show a likelihood that respondent's decisions would harm them. Respondent's mental health had not been consistently stable for any length of time, he planned to include the children's mother in the home with the children even though she had untreated substance abuse issues and was the subject of his domestic violence, he possessed marijuana in December 2004 despite his efforts at substance abuse treatment, and he was likely to be incarcerated again in the future and leave the children without a stable caretaker. In addition, Rose had special needs requiring patient and consistent parenting, and intensive follow through on her issues.

Further, the evidence did not show that termination of respondent's parental rights was clearly contrary to the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent loved his children and the children were bonded to him. However, the statutory grounds for termination were established and showed no likelihood that respondent could suitably, consistently parent them within a reasonable time, particularly given Rose's special needs. No evidence was presented showing a particular detriment to the children as a result of termination of respondent's parental rights.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Kurtis T. Wilder
/s/ Brian K. Zahra